

TEXAS ALCOHOLIC BEVERAGE COMMISSION
COMMISSION MEETING
MONDAY, AUGUST 28, 2000

The Texas Alcoholic Beverage Commission met on this date in Room 185 at 5806 Mesa Drive, Austin, Travis County, Texas. Members present: Allan Shivers, Jr., Chairman; John T. Steen, Jr., Member and Gail Madden, Member. Staff present: Doyne Bailey, Administrator; Randy Yarbrough, Assistant Administrator; Lou Bright, General Counsel; Jeannene Fox, Director of License & Compliance; Denise Hudson, Director of Resource Management; Charlie Kerr, Director of Fiscal Services; Jay Webster, Director of Information Resources; Gene Bowman, Director of General Services and Buck Fuller, Director of Compliance. Present to receive certificates of service: Randy Donahoo, Bryan Enforcement and Mark Hohensee, San Marcos Enforcement. Comment was received from: Glen Garey, Texas Restaurant Association; Bill Vear, Texas Restaurant Association; Mike McKinney, Wholesale Beer Distributors of Texas and Bob Mann, Alcohol Safety.Com

The agenda follows:

1:30 p.m. - Call to order.

1. Recognition of agency employees with 20 or more years of service.
2. Approval of minutes of July 24, 2000 meeting; discussion, comment, possible vote.
3. Administrator's report:
 - a. discussion of staff reports;
 - b. recognitions of achievement; and
 - c. discussion of management controls.
4. Agency internal auditor position; discussion, comment, possible vote.
5. Presentation by the Texas Restaurant Association on innovative approaches to seller-server training.
6. Public comment.

Announcement of executive session:

7. Executive session:
 - a. performance evaluation of the administrator.

Continue open meeting.

8. Take action, including a vote if appropriate, on topics listed for discussion under executive session.
9. Adjourn.

The meeting was called to order at 1:43 p.m. by Chairman Shivers.

MR. SHIVERS: I call this meeting of the Texas Alcoholic Beverage Commission to order on Monday, August 28, 2000. It is one forty-three in the afternoon.

The first item of business is to recognize employees who have 20 years or more with the TABC.

Randy Donahoo began his career with the TABC on August 4, 1980 as an Inspector I in Bryan. In 1995, Randy was promoted to sergeant and transferred to Houston. In June of this year, he returned to the Bryan Office. Randy has been married to Kaye for 31 years, and they have two children, Kelly and John. In his spare time, Randy is a living historian. He is on the Board of Directors for the San Jacinto Volunteers. He plays and sings cowboy music and is a member of a cowboy band. We congratulate Randy on his 20 years of service to the State of Texas and the TABC.

MR. DONAHOO: Thank you.

MR. SHIVERS: Mark Hohensee began his career with the TABC on August 4, 1980 in Longview where he learned all about private clubs and bootleggers. Mark was later transferred to Austin and assigned to the San Marcos outpost where he has worked and flourished to the rank of Agent V. Mark met his wife, Debi, in San Marcos, and they have two boys, Joey and Sterling. Mark is a native of the San Angelo area where his parents still reside. We congratulate Mark on his 20 years of service to the State of Texas and the TABC.

MR. HOHENSEE: Thank you.

MR. SHIVERS: Next, we have approval of the minutes of the last meeting.

MS. MADDEN: I so move.

MR. SHIVERS: Second?

MR. STEEN: I wasn't here.

MR. SHIVERS: Second. Any changes? All in favor?

MS. MADDEN: Aye.

MR. SHIVERS: Aye. Opposed?

Administrator's report. Mr. Bailey?

MR. BAILEY: Mr. Chairman, I would tell you that at the end of this month, we will have

finished our fiscal year, so next month we anticipate we will give you a recap of how we did on our performance measures and our budget.

From all that we hear at headquarters, we all feel like two of you did an excellent job last week at the presentation before the LBB staff, and we appreciate you being a part of that. We look forward to all three of you being involved in future presentations. That will be all.

MR. SHIVERS: Any questions?

MS. MADDEN: For the record, I heard they did a fabulous job presenting the LAR on August 21st.

MR. STEEN: Thank you.

MR. SHIVERS: If you want to confuse your friends, tell them we were presenting the TABC's LAR to the LBB and they will wonder if you have lost your mind.

Number four - internal auditor position. Is Charlie going to present that or you going to do it?

MR. BAILEY: I think I can give you the highlights. If you have additional questions, Charlie may help.

As you recall, we are in the process of trying to determine whether or not we are better served by continuing to hire a staff member as internal auditor or whether or not we want to use this opportunity to contract for an internal audit function.

We continue to do the research that Charlie and Gene Bowman have done, and we anticipate that an outside audit contract would cost between 40 and 50 thousand dollars. That's a little bit less than what we had been paying salary for Mr. Kerr. We can also tell you that because of the nature of the position that we would be seeking, a CPA, it would be a professional service, and we are able to go directly to any person that you choose to discuss a contract and the possibility of them working.

From the report that I gave you month before last, we found there are essentially two who have been active in contracting with state agencies. We have had some discussion with one of those. With that information, we would be interested in knowing what your preference would be.

What Charlie and Gene have done is prepared a proposed contract that

could be used to contract with anyone that you choose. It provides a clause for us to discontinue it with 30 days notice, so it's certainly no risk from the standpoint of you being able to exercise your options in the future.

With that, we will follow your guidance.

MS. MADDEN: Were the two agencies that we discussed last month, Health and Human Services Commission, and I think the other one was the Department of Information Resources, are those the two you are referring to?

MR. BAILEY: No. What we have done, we have talked to one of the two people or organizations that are currently doing internal audit for state agencies. One is Gonzales, and the other one is actually a one-man practitioner in Wimberley. We have talked to Mr. Gonzales just from the standpoint of his experience with other agencies, the ballpark of how much that would cost.

MS. MADDEN: Did we ever follow-up on those other two agencies? You all thought they were comparable to our size, and they...

MR. BAILEY: What we found is that both of those are much larger than our size, and we felt like probably what they were doing with their contract audit was just specific portions, and we did confirm that.

MS. MADDEN: Okay.

MR. SHIVERS: You gave us the scope of the contract, what you are asking the auditor to do, didn't you?

MR. BAILEY: Yes. It's in your packet. I would add that I think it's completely appropriate for the commissioners, for each of you to visit with any one of the people who have been identified as doing...with anybody, as far as that's concerned, or you can designate to myself or some other member of the staff to narrow down outside auditors. The same is true if you decide to hire an internal auditor. We would sure encourage you to be involved in the screening and final selection of that position.

MR. STEEN: Mr. Bailey, just so I understand, you talked to outside auditors that are currently doing work for state agencies?

MR. BAILEY: Yes, sir.

MR. STEEN: They were saying it would probably cost 40 to 50 thousand?

MR. BAILEY: Yes, sir.

MR. STEEN: If we went out and hired somebody to come work as an employee, what would we be looking at as far as salary?

MR. BAILEY: Probably a minimum of 56 to 57 thousand a year.

MR. SHIVERS: Plus benefits?

MR. BAILEY: Yes.

MR. STEEN: Did Mr. Kerr have a secretary or an automobile?

MR. BAILEY: No. There are some indirect costs, of course, for every employee, so it would be, I think, 18 percent in addition to the 57 thousand. Mr. Kerr shared a secretary with the general counsel. It's Amanda's position where he gets his secretarial help from.

MR. STEEN: Did he have an automobile in that position?

MR. BAILEY: No. I should mention that the CPA that we did talk to made it clear that that 40 to 50 thousand would not include any travel. For instance, if he needs to go to the ports of entry or any other of the remote locations, that would be additional costs in his contract.

MR. SHIVERS: So you might anticipate another five thousand or so a year for travel?

MR. BAILEY: Yes, I would think so.

MR. SHIVERS: I think we can recognize some cost savings by going to an outside person. Are you and Mr. Kerr confident that you can get the same amount of coverage we need going outside?

MR. BAILEY: I don't think it would be fair to ask Charlie to ever agree that anybody could do as good a job as he did.

MR. SHIVERS: That's not what I'm asking.

MR. BAILEY: Based on our contract and based on the experience that other agencies have had, I think we can find adequate internal audits in that regard.

MR. SHIVERS: You would estimate a savings of approximately 20 thousand dollars a year if you throw in benefits?

MR. BAILEY: I don't think it would be quite that much.

MR. YARBROUGH: Ten to 12.

MR. BAILEY: Ten to 12 would be my guess.

MR. SHIVERS: If you get this for about 50 and you are paying an internal auditor about 57 plus benefits, you are going to be a little higher than that, aren't you?

MR. STEEN: What's the figure?

MR. YARBROUGH: Just ballpark, his travel cost, and so forth, may...

MR. SHIVERS: What's the overhead calculation on that position, do you know, specifically?

MR. BAILEY: Charlie, do you know?

MR. KERR: Total overhead on my position would probably be close to 30 to 35 percent in addition to the salary.

MR. STEEN: Somebody just give us two figures. If we take 45 thousand as an outside, what are we comparing that against?

MR. KERR: You are probably looking at about a 20 thousand dollar a year difference, based on this particular proposal here on 600 hours of coverage at the quote that he has given us on hourly wages.

MR. SHIVERS: Given your experience as the internal auditor, is this adequate to cover the agency's needs?

MR. KERR: It would be adequate to cover the needs. I don't think you are going to get as much coverage as you would have with an in-house auditor, because you are going to have more hours available for an in-house auditor probably. But, as far as the coverage that you need to meet the requirements of the Internal Auditing Act and the state auditor's requirements for coverage and the Institute of Internal Auditors Standards, it would be sufficient.

MR. SHIVERS: Given the savings, I think you've even got room to expand this contract if

you need to and still be saving some money.

MR. KERR: Sure, you could even request more hours and more coverage if you wanted to.

MR. SHIVERS: And still have some savings over an internal auditor.

MR. KERR: Yes.

MR. STEEN: If we decide to go in this direction, are we just going to be talking to the two people?

MR. BAILEY: I think you can talk to anyone you want to. There is a concern...the definitions that are provided by the General Services Commission, which controls requests for proposals, and so forth...because you are doing this as a professional service, you don't want to widely broadcast what you intend to do, but I think you are within your rights to contact any specific company or individual that you want to offer this to. The answer is you can talk to anyone you want to.

MS. MADDEN: On that sheet that you all gave us last time or the time before, it looked like there are only a couple of them. Can we go outside of that?

MR. BAILEY: Certainly.

MR. STEEN: Mr. Kerr, what about you? Do you know other people that can do this through your professional connections?

MR. KERR: This particular person that gave us this request for information, I'm aware of his work. He has done good work. I've talked to the other agencies that use him and they have been real happy with him. He is a certified HUB, which is another plus. So, that's the reason I contacted him, because I knew about his work and I knew that he had several agencies. But, there are other people that do contract work for state agencies besides Mr. Gonzales.

Like I said, we can come up with some more names and more companies. We mainly did this just to give you a ballpark figure on how much it would cost. This particular company is probably going to be one of the more inexpensive ones, because his hourly rate is pretty reasonable based on some CPA firms. If we went out and actually did an Arthur Andersen or something like that, it would probably be twice as much as this. But, since he's a private firm, he's able to give us a little bit better rates, I

guess.

MS. MADDEN: His firms are smaller, though, aren't they? Off of that list, they were all smaller.

MR. KERR: Right. I think he only has 45 or 50 people in his company.

MS. MADDEN: I mean the agencies.

MR. KERR: Yes, most of them are pretty small, because he's not going to have the staff to probably go in and do a huge agency. Some of the bigger agencies he does have, I think he just audits specific things like federal grants or something like that.

MR. STEEN: Mr. Bailey, how does this impact our budget? We've got this position and now we are not going to fill it, instead go to an outside firm - if that's what we decide to do - what are the implications of that?

MR. KERR: That salary money would probably be rolled over into a different cost center, and we would then pay that auditor out of those savings of that particular position. We would lose that position, but we would probably be able to keep the money to pay for the service.

MR. SHIVERS: Given the cost savings, I think this is something we need to pursue, and we probably need to see if we can get a couple of other firms to respond to this, preferably local firms so they don't have to fly down here from Dallas or Houston or drive up from San Antonio every time we have to do this. Do you think we can find a couple more in this region?

MR. KERR: Sure.

MR. STEEN: How about if they narrowed it down to two or three and have them come in and make a presentation to us?

MR. SHIVERS: I think that's the thing to do. Good idea. Narrow it down to two or three and let them come in and make a presentation to the commission. This is one of those things where you are really the one that has to hire them, but since they have to report directly to the commission, I think we ought to be able to look at them and see if we like them and let you pick among the ones we like.

MR. BAILEY: Sure.

MR. SHIVERS: We can watch it, and if it doesn't work out after a year, we can go back to looking for an internal auditor. Is that agreeable with everybody?

MR. STEEN: Yes.

MS. MADDEN: Yes.

MR. SHIVERS: Do we need to vote on this?

MR. BAILEY: I don't think so. We will have some people for you to visit with in September, and I don't think you need to vote on it at all.

MR. SHIVERS: Okay.

MR. BAILEY: Gene, do you agree with that? It doesn't require a vote on their part, does it?

MR. KERR: Not at this point.

MR. BOWMAN: What we have to be careful of if we put this out for a request for proposal, it would require that we go through the General Services Commission, and that's a minimum four to six months process. That means...

MR. SHIVERS: Can we do it without going through that?

MR. BOWMAN: That's kind of why we did it the way we did and only contacted one service that we had information on the type of work they had done in the past in agencies of comparable size that they had dealt with. You mentioned that you want us to contact a couple more vendors. We can do that on a one-on-one basis, but the fact that we've had this meeting and it's now public knowledge that this one vendor is starting to negotiate with us, I don't know if that's...we are approaching the gray area of getting into a request for proposal, which is a formal document that I would have to send out to all the vendors.

MR. SHIVERS: We probably should have done this in executive session, but Lou probably would have told us we couldn't.

MR. BRIGHT: You can certainly meet in executive session to discuss your negotiating position in any contract and what that might or might not be.

MS. MADDEN: Does that totally preclude us from calling even one more agency?

MR. BOWMAN: No, I don't think it precludes you. We didn't send this out as a request for proposal to ask that it be sent back by any specific time or date or that any further negotiation would take place. We simply contacted this firm and said, "If we were thinking about doing this, what would your rate be? Just give us a ballpark figure." If we invited his firm over and he actually came and sat down with us and discussed in detail the complexity of the agency, exactly what it was we wanted done, what we wanted covered, the final negotiated amount may vary a few thousand dollars.

MR. SHIVERS: He hasn't really given us a bid. He has just given us a rough ballpark number.

MR. BOWMAN: Right. We can get another rough ballpark from the vendor in Wimberley or we can try to find one locally here in Austin. We have a list of several firms that do this type of work. We picked primarily the one out of San Antonio because they were doing more work with more agencies than any of the local firms were doing.

MR. SHIVERS: Okay.

MR. STEEN: I think, just like anybody would if they were hiring a professional, through word of mouth or whatever, I think we would like you to talk to more than just one person. Talk to six or seven and, as Mr. Shivers said, have them come in in the September meeting - the three you think are the best candidates - and let us talk to them in the meeting.

MR. SHIVERS: Can we do that in executive session, Lou?

MR. BRIGHT: I don't believe so. Let me check and make sure, but I don't believe that you can. I believe that you can discuss whatever instructions that you are going to give the staff about what your negotiating position is on that. I apologize that I didn't think about this beforehand, but I don't remember any of the executive session exceptions that would apply to this.

MR. SHIVERS: I thought there was essentially a personnel matter where interviewing potential hirees...

MR. BRIGHT: That's right. There is a personnel exception, and that may well fit, subject to me looking at that. Typically, what that is used for and what's been....

MR. SHIVERS: What I'm trying to avoid is if we are interviewing two or three different ones, having them to disclose publicly what their particular position is so it puts them at a disadvantage.

MR. BRIGHT: I recognize that. Let me give that some thought if I can.

MR. SHIVERS: Okay.

We have a presentation by the Texas Restaurant Association on innovative approaches to seller-server training. This is an issue that Mr. Steen brought to us. Glen Garey and Bill Vear will make the presentation.

MR. GAREY: Good afternoon, Commissioners, my name is Glen Garey. I represent the Texas Restaurant Association. This is Bill Vear. He is on our education foundation and is the person primarily responsible for putting this program together for us.

While he's setting up, there is one thing I'd like to mention. While we put a lot of time in on putting this program together, it's something that was novel to the agency when we brought it to you. I want to say that Buck Fuller and Steve Carlson and especially Debbie Dixon were very very helpful in getting this put through so that we made sure we had the right security, hit all the points that are required in the rule. I'm guessing by the number of times that Debbie had to go through this thing, she's probably been certified four times over, but we really do want to say that we appreciate all the work that she put in on it. Bill?

MR. VEAR: Again, thank you for allowing us to present today. I reiterate what Glen said. I worked very closely with Debbie, actually your entire staff in setting up this here alone, as well as working through all the kinks and headaches that technology sometimes brings as it's new.

What I would like to do is be able to give you a run through of basically what the program is about and how we developed it. The focus from the Texas Restaurant Association in moving to this development was really trying to make this as accessible to anyone across the State of Texas, and whether they were in Eastland, Texas or Dallas, Texas, they would be able to make this accessible to them.

It's interesting seeing some of the graduates. I'm seeing graduates from Del Rio, El Paso, from everywhere across the State of Texas. I'm also seeing graduates graduating at three o'clock in the morning and seven o'clock in the morning and three o'clock in the afternoon. It's real interesting seeing that our ultimate goal was to make this as easily accessible, 24 hours, seven days a week, and they really have been taking advantage of that.

At this time, the commission viewed the *Texas Bar Code* presentation.

MR. VEAR: Our goal was to do two things - one, to make it easily accessible and two to really make it affordable for people to utilize. We have been able to drop the price down to \$12.95 per individual.

MR. SHIVERS: They pay for it by credit card?

MR. VEAR: There are actually three ways they can pay for it. They can pay for it by check on-line or credit card on-line, and we also have a corporate account or a prepaid account where they can purchase 50, 100, however many they want.

MR. SHIVERS: And they assign a code number to that or something?

MR. VEAR: Exactly.

We've had a lot of great comments in saying, "This is wonderful. It fits my work schedule." We handed out about four thousand at the food service expo, which is our expo. The other associations were also generous in handing those out as well and using associate members to help hand these out. We have, just by word of mouth at this point, we had over 300 requests just to send out the CD. As of today at 11 o'clock, we've had 67 graduates. We've got about 150 in the system paid right now. Again, as I said, we had four thousand handed out. We have about four thousand left. Many of the others have gone to corporations to be able to access it. Again, this is both accessible using the CD or without the CD. You can do it just totally on-line as well.

MR. SHIVERS: That's neat.

MR. STEEN: I think the great thing about this is now no one can use inaccessibility or cost as an excuse for not doing this.

MR. VEAR: Right.

MR. STEEN: Can I ask Mr. Fuller to come forward? If this catches on and we start seeing a big increase in the number of people that are seller-server trained - we had a discussion here about the additional manpower that would be required if we made it mandatory - Mr. Fuller, can you speak to that? Is this way of doing it going to make any difference in terms of the manpower on your side?

MR. FULLER: That may be a difficult question to answer. As we see more people trained, that may impact our workload. With this particular program, each session is handled as an individual session, so our data entry will still be the same way it is now.

Bill mentioned earlier the notices will still be submitted the way they always have, regardless of whether it's a computer-based, internet-based or just a traditional classroom. We've talked to Jay Webster about trying to find means for electronic transfer of information, and I think he says that's part of the re-engineering of our computer system. Maybe the new system would have those capabilities.

Right now, one thing with the new rules that are taking place, we anticipate more people being trained. We do have all of the schools out on our web base so people can access all of the schools that are available.

I would like to go ahead and mention, if I could, and say Debbie Dixon and Steve Carlson have done an excellent job in working with all the schools and making sure the security measures are in place and that curriculums are met. Debbie and Steve, by the way, are in El Paso today doing a seller training seminar, going over the new rules with the schools and trainers in that region.

MR. STEEN: I think that's one area we could work on. There's a step there where they are producing forms that you all have to handle. Why couldn't they do that electronically? You are saying we can't with the...

MR. FULLER: I'm saying we would really like that. I've talked with Jay Webster and he talks about security and things. Jay, would you want to address this?

MR. WEBSTER: Mr. Steen, from what I've heard the gentleman say, and this is my first exposure to your electronic solution here, it certainly doesn't look insurmountable that we could take data in a common format, no matter what your database is, and begin to...as long as we can clear some security issues in identifying those people and we felt satisfied the information we were getting was valid, secure and all that, that we could interface with our current data. I would be happy to have one of my technical people sit down with either yourself or someone from your company, and we can take a look at this and share that information with the compliance department and see what we can do in a short amount of time.

MR. VEAR: That would be wonderful.

Buck and I were also talking about the actual certificate. As of September 1st, the seller-server trainer will be passing those certificates out. As it is right now, it's all handwritten as far as the information. We are looking at some solutions to be able to make that electronic as well. They have been very helpful in trying to find some solutions for that as well.

MR. STEEN: You mean, you would be able to just send back the certificate to them?

MR. VEAR: As of September 1st, the new rules have it that the schools themselves will be handing out...we will buy and purchase in 50 lots, where we would get a book and be able to send out that certificate after the completion of the course.

MR. SHIVERS: But, you may be able to do that electronically?

MR. VEAR: We do have capabilities, and we have been working together to try to find some solutions to that. If we are getting to the point where we are getting...and I'm seeing this starting to double...

MR. SHIVERS: Since you are only doing 67, it's not an issue, but if you start doing 67 hundred, it becomes an issue.

MR. VEAR: It does. By the end of July, I think we had 14. It just increases weekly. We are beginning to see that we are going to have a person just specifically focused on this so that the information is transmitted. We are trying to work as best as we can to make that as easy as possible without having to do re-entry.

MR. SHIVERS: Thank you very much. John?

MR. STEEN: I had something else I wanted to mention. As you all know, it's a goal that I have to increase the number of retailers that are requiring their employees to participate in this seller-server training, and I had a discussion with Mike McKinney about it. Mike, do you have something you could tell us about what you would be willing to do?

MR. MCKINNEY: Mr. Chairman, Members, in response to what Mr. Steen indicated, we had made an offer and renew that today that if there's anything that the commission designs insofar as a pamphlet or written material to encourage retailers to avail themselves of seller-server training, we'd be happy to use the distribution network that our members have across the state to get that material in the hands of the retailers.

We've said since 1987, our very strong belief, especially by Mr. Spilman and myself, that every retailer ought to avail themselves of what seller-server training has to offer, and we'd be delighted to help in disseminating any information you all would like to have us disseminate. We see every account very often.

MR. STEEN: I continue to be puzzled why, with the safe harbor provisions that we have, that more retailers...I think the last number I was given was 47 percent. I've got to think a lot of it is just not communicating with them. This may be a way to do it. Mr. Bailey, if we could produce the information and use their distribution system to get it out to all the retailers...I think what the Texas Restaurant Association has done is great but, of course, we can't emphasize that over what the schools are doing. If we could just, in plain language, tell the retailers what the advantages of doing this are, and then direct them to the schools or the Texas Restaurant Association. If we could do that, I think that would be a good thing, if we could get it out through Mr. McKinney's distribution system.

MR. MCKINNEY: We will be happy to help in any way you would like for us too.

MS. FOX: Mr. Steen, just one thing I want to bring to your attention. We do send out information to every retailer with all the schools available, what their address and phone number is, once a year when we send them their permit, whether it is an original or a renewal permit. So, they are getting some information, at least once a year, what's available and it explains the safe harbor and the program and all the benefits that you might have if they avail themselves of that seller training.

MR. STEEN: I would like to look at that and see in what form that's in, because I don't think the message is getting to them. Maybe if we could come up with something that was very simple. It's kind of complicated to explain safe harbor to somebody.

MS. FOX: I will be glad to give you a copy of it.

MR. SHIVERS: Ms. Fox, while you are there, do you know roughly what percentage of the licensees are also the seller-server, where the licensee himself or herself is probably the only seller-server or members of their families are?

MS. FOX: I'm sorry. Say that last part again.

MR. SHIVERS: How many of our licensees are classified as mom and pop operations where the licensee is, in effect, the seller or server or their spouse?

MS. FOX: I really don't know the answer to that question. I think approximately 40 percent of our permits are issued to individuals. That's as close as I can get to tell you if that's mom or pop. Those type operations generally aren't incorporated. They don't follow those type of corporate schemes. Off the top of my head, that's the only thing I can tell you that might be close to getting where you are.

MR. SHIVERS: As I understand it - one of your lawyers will have to help me - but the safe harbor provision really doesn't do them a lot of good, does it? There's not much of a protection in that case, is it?

MR. BRIGHT: It protects you against being responsible for the actions of your employees.

MR. SHIVERS: But, if you are your own employee?

MR. BRIGHT: If the action is done by the permit holder, himself, I don't think that statutory language fits that situation.

MR. SHIVERS: Safe harbor has a rocky bottom.

MR. BRIGHT: Perhaps.

MR. STEEN: Is that something you all think we can work on?

MR. SHIVERS: I think more communication is better. I wonder if there's not some level of permittees who won't do it anyway because they see no particular advantage to it. That's really what I was trying to get out of my question. Is there a percentage for whom it has no advantage?

MR. STEEN: I know they did that study back in '97, and I didn't recall seeing anything like that. The issues that came up of why people weren't doing it was the cost, the inaccessibility.

MR. SHIVERS: Could be.

MR. STEEN: That's what we are seeing today, and they can't really use that as an excuse anymore.

MS. MADDEN: It's going to be a while for them to know about this new thing, probably a few months, maybe even a year.

MR. SHIVERS: Yes. We will continue to monitor this and see what we can do about better communication. Let's look at what we are doing now to

communicate with the retailers. Ms. Fox, you might give Mr. Steen a copy of whatever we send out to the retailers, and if you have any suggestions on improving it.

MR. STEEN: What about Mr. McKinney's offer?

MR. SHIVERS: Great. You already urge your retail customers to have their people seller-server trained, don't you, Mike? Is that what I understood you to say?

MR. MCKINNEY: We send out, from time-to-time, communications to our distributors that are members of our association encouraging them to encourage retailers to do it, because we just say we think it's something you ought to do. As far as a concerted effort for our distributors to try to educate or put material in the hands of retailers, we've not done that, but we would very much offer to put in their hands whatever you all would want us to do.

MR. SHIVERS: Perhaps your association will be willing to work with our staff on wording that TABC can endorse on something you send out.

MR. BAILEY: He's offering that if we do produce something, he's offering to distribute it. What we will do is...

MR. SHIVERS: I'm asking him to produce something and we'd endorse it.

MR. MCKINNEY: Why don't we work with the staff, and maybe if we can come up with something, we can all do it.

MR. SHIVERS: Good. Thank you.

MR. STEEN: Thank you, Mr. McKinney.

MR. SHIVERS: Anything further, John?

MR. STEEN: No.

MR. SHIVERS: Public comment?

MR. MANN: I didn't sign up. I wasn't prepared to make a comment. I'm Bob Mann. I'm a school operator. The only comment I have to make, initially, is what the rules call for. The term comes to me of tied-house relationship. It's very strict about how schools operate, what distributors can do and can't do and what the associations can and can't do when it comes to seller training. I think that's something you would need to look at real close on

that.

MR. YARBROUGH: I think an answer to his concern is anything that we would put out would not be an endorsement of this program. It would be all schools available, so no one would have any proprietary advantage over another, but just to make that information available. There may be somebody down the block that they would much rather use than this program, or whatever, or if they know somebody locally. Anything we'd put out would not be aimed at impacting anybody that's already in the business and simply making that information more available and encouraging more people to partake in it.

MR. SHIVERS: The commission's interest is in encouraging servers to be seller-server trained. It is not our intent to specify how they become seller-server trained, just so that they become seller-server trained.

MR. STEEN: I believe I said the same thing.

MR. SHIVERS: Thank you, Bob.

The commission will now go into closed executive session to discuss agenda item number seven - performance evaluation of the administrator.

The commission convened in executive session at 2:40 p.m. and reconvened in open meeting at 3:48 p.m.

MR. SHIVERS: The commission meeting of August 28, 2000 is now back in open session. During executive session no votes were taken, no final decisions were made. The administrator was evaluated.

Is there a motion to adjourn?

MR. STEEN: So moved.

MR. SHIVERS: And, he still has his job.

Second. Thank you very much. We are adjourned.

The meeting adjourned at 3:48 p.m.